

HOUSE BILL 1246
By Chumney

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5
and Title 56, relative to insurance coverage for former
spouses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by adding
the following language as a new appropriately designated section:

56-7-2363. (a) No individual or group policy of accident and sickness insurance
offered for sale in this state, which provides coverage for hospital or medical expenses
that, in addition to covering the insured, also provides coverage to the spouse of the
insured, shall contain a provision for termination of coverage for a spouse or dependent
children covered under the policy solely as a result of the divorce of the parties. This
provision shall apply to any policy that covers residents of the state, issued or renewed
within or without the state.

(b) Every policy that contains a provision for termination of coverage of the
spouse upon death or divorce of the insured shall contain a provision to the effect that,
upon the death of the insured or the entry of a valid decree of divorce between the
insured parties, the surviving or divorced spouse and any dependent children shall be

entitled to have issued, without evidence of insurability, upon application made to the company within ninety-one (91) days following the entry of such decree, and upon the payment of the appropriate premium, an individual or family (group) policy of accident and sickness insurance that provides coverage most nearly similar to the coverage contained in the policy which was terminated by reason of death or divorce or any other similar individual or family policy then being issued by the insurer. Any and all probationary or waiting periods set forth in such an individual or family policy shall be considered as being met to the extent coverage was in force under the prior policy.

(c) This section shall also apply to blanket accident and sickness insurance policies and to policies issued by a fraternal benefit society, a hospital service nonprofit corporation, a nonprofit medical service corporation, a health care corporation, a health maintenance organization, or any other similar entity.

(d) Each group or individual certificate shall set forth the continuation right provided. The provision shall clearly set forth a full description of the continuation right available, including all requirements, limitations, exceptions, the premium required or a brief statement concerning the method of calculation thereof, and the time of payment of all premiums due during the period of continuation.

(e) Claims paid on behalf of a divorced or separated or widowed spouse or on behalf of a dependent who is not residing with the member shall be paid to the physician, hospital or other provider of covered services, or to the person on whose behalf such services were performed, unless the person is a minor child. In the event the person on whose behalf such services were performed is a minor, payment shall be paid to the physician, hospital or other provider of such services, or to the parent or custodian with whom the child resides.

(f) In the event of the changing of jobs by the group plan member, this coverage shall move to the new group plan of that employee.

(g) In the event of the remarriage of the group plan members referred to in subsection (a) and (b), the former spouse shall have the right to continue to receive benefits as are available to the member by means of the issuance of the rider to the family plan or the issuance of an individual plan.

(1) The monthly premium charged for the continuation shall not be greater than one hundred percent (100%) of the total of the amount that would be charged if the eligible group member or the divorced or surviving spouse were a current group member, and the amount that the group policyholder would contribute toward the premium if the eligible group member or the divorced or surviving spouse were a current member;

(2) The first premium for the continuation of coverage under this section shall be paid by the eligible group member, if required by the court, or the divorced or surviving spouse on the first regular due date following the expiration of the eligible person's benefits. The right to coverage shall terminate upon the earliest of any of the following:

(A) The failure to pay premiums or required premium contributions when due, if applicable, including any grace period allowed by the policy; notice of cancellation of coverage of the divorced or separated spouse of a member shall be mailed to such person at their last known address, together with notice of the right to reinstate coverage retroactively to the date of cancellation; or

(B) The date that the group plan is terminated as to all group members, except that if a different group plan is made available to group members, the eligible group member or the divorced or surviving spouse shall be eligible for continuation of the same coverage under the new plan; or

(C) The date on which the divorced or surviving spouse becomes insured under any other group health plan; or

(D) The divorced or surviving spouse remarries; or

(E) The date on which the divorced or surviving spouse becomes eligible for federal Medicare coverage.

(h) This coverage shall apply to any group contract or group plan that covers twenty (20) or more employees and that, is entered into or renewed in this state on or after July 1, 2003.

SECTION 2. Tennessee Code Annotated, Section 36-5-101, is amended by adding the following as a new, appropriately designated subsection:

(u) Pursuant to section 56-7-2363, no individual or group policy of accident and sickness insurance offered for sale in this state, which provides coverage for hospital or medical expenses which, in addition to covering the insured, also provides coverage to the spouse of the insured may contain a provision for termination of coverage for a spouse or dependent children covered under the policy solely as a result of the legal separations, annulment, or divorce of the parties.

SECTION 3. This act shall take effect July 1, 2003, the public welfare requiring it.